

The only contention of the counsel for the petitioner is that the Board of Revenue for Rajasthan, Ajmer while deciding appeal No.11/84 by judgment dated 11.6.1987 has not taken into consideration the contention of the petitioner appellant with regard to violation of provisions of Section 12 of the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (hereinafter referred to as "the Act of 1973"). This fact was also brought into knowledge of the Board of Revenue by way of filing a review petition which was decided by the Board of Revenue by judgment dated 26.8.1987. The Board of Revenue while dismissing the

review petition held that the contention for non-compliance with the provisions of Section 12 of the Act of 1973 was tangential or peripheral and had no bearing on the point basically at issue. According to the counsel for the petitioner the provisions of Section 12 of the Act of 1973 are mandatory in nature and, therefore, the Board of Revenue should have dealt with the contentions raised by the petitioner with regard to violation of provisions of Section 12 of the said Act.

I have heard counsel for the parties.

From the pleadings it is apparent that the petitioner appellant raised a contention before the Board of Revenue with regard to non-compliance of provisions of Section 12 of the Act of 1973. The Board of Revenue while deciding appeal by judgment dated 11.6.1987 has not taken into consideration the contentions so raised. The Board of Revenue while deciding review petition also observed that the contention raised by the petitioner with regard to non-compliance of Section 12 of the Act of 1973 was tangential and peripheral and, therefore, refused to decide the contention of the petitioner and dismissed the review petition. The Board of Revenue exercises judicial powers and while exercising such powers all the contentions raised and pressed in service are always required to be adjudicated.

I do not find any just and valid reason to term the contention raised by the petitioner appellant with regard to non-compliance of the provisions of Section 12 of the Act of 1973 as tangential and peripheral. The contention goes to the route of the matter and, therefore, it requires adjudication on merits.

In view of whatever stated above the judgment impugned dated 11.6.1987 is quashed. The Board of Revenue for Rajasthan, Ajmer is directed to decide the appeal afresh. The Board of Revenue while doing so will adjudicate the contention of the petitioner appellant with regard to non-compliance of the provisions of Section 12 of the Act of 1973. The Board of Revenue is expected to decide the appeal within a period of three months from the date of receipt of certified copy of this order. The parties are directed to maintain status quo with regard to the land in question for a period of four months from today. The petitioner shall be at liberty to move an application for extension of interim order before the Board of Revenue, if so required.

The writ petition is disposed of accordingly with no order as to costs.

(GOVIND MATHUR), J.

kkm/ps.